

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Casati, et al.)	Examiner: Boyce, Andre D.
)	
Serial No.: 10/032,363)	Art Unit: 3623
)	
Filed: December 21, 2001)	Confirmation No.: 4968
)	
For: METHOD AND SYSTEM FOR)	
PERFORMING A CONTEXT-)	
DEPENDENT SERVICE)	

Commissioner of Patents
Alexandria, VA 22313-1450

EXAMINER INTERVIEW SUMMARY

On Thursday, August 26, 2010, Matthew J. Blecher, representative for Applicants, participated in a telephonic Examiner interview with Examiner Boyce to discuss the Notice of Abandonment. Mr. Blecher requested clarification as to why the Notice of Abandonment was mailed, and suggested that Examiner Boyce misinterpreted MPEP § 1214.01(I) in refusing to enter the amendments submitted on May 17, 2010. Mr. Blecher submitted that since the new Ground of Rejection was addressed by amendments, that refusal to enter the appropriate amendments is improper and without precedent. Mr. Blecher submitted that the proper course of action would have been to enter the amendments, and prepare a Final Office Action addressing the New Ground of Rejection with the option of being silent to the additional amendments.

Examiner Boyce indicated that the amendments were not entered because additional amendments beyond those necessary to overcome the New

Ground of Rejection were submitted. Mr. Blecher acknowledged that these amendments were made in response to a statement in the Decision on Appeal that “[w]e note that claim 1 is silent as to what the context information is being detected from, and does not preclude the claimed ‘detecting’ from being detecting the presence of the context information in a set of data” (Decision on Appeal; page 6, lines 18-21). Examiner Boyce acknowledged that the Amendment and Response appeared *bona fide*, and acknowledged that the New Ground of Rejection under 35 U.S.C. § 101 was adequately addressed, but was not persuaded in his refusal to enter the amendments was improper.

During the Thursday, August 26, 2010, telephonic Examiner interview, Mr. Blecher also submitted that, at a minimum, since the Amendment and Response was *bona fide* as acknowledged by Examiner Boyce, the Applicants should have been given a one-month time period to correct the reply in accordance with 37 CFR 1.135(c). Examiner Boyce responded that it was his understanding that the period for response that was controlling in this instance was the non-extendible two-month response period beginning with the notification date of the Decision on Appeal. Mr. Blecher countered by stating that 37 CFR § 41.50(b)(1) states that the submission of an amendment results in the proceeding being “remanded to the examiner.” Therefore, once the Amendment and Response were timely submitted and prosecution was reopened by remanding the proceeding to the Examiner, the period for response was no longer controlled by the Decision on Appeal, but rather was restarted pending the next Office Action. Examiner Boyce acknowledged that he was unsure as to which course of action was correct, but would not change his decision at this point in time.

Applicants wish to thank Examiner Boyce for taking the time to participate in the Examiner interview.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration and reversal of the holding of abandonment. Applicants further request Examiner Boyce to proceed in accordance with MPEP § 1214.01(I) by entering the previously submitted amendments or, in the alternative, allow the Applicants an opportunity to correct the Examiner's stated error in the previously submitted amendments in accordance with 37 CFR § 1.135(c).

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER BLECHER LLP

Date: 09/28/2010

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